

## **REMARKS**

Claims 1-13, 15-29, and 31-51 were presented for examination and were pending in this application. In an Official Action dated October 31, 2005, claims 1-13, 15-29, and 31-51 were rejected.

Claims 1, 17, 45, and 46 have been amended to recite proper antecedent basis to overcome the rejection of claims 1-32, 45, 46, and 49-51 under 35 USC 112, second paragraph. Claim 49 has been amended to correct a typographical error.

For the reasons discussed herein, Applicants respectfully request that the Examiner reconsider all outstanding rejections, and withdraw them.

### **Response to Rejection Under 35 USC 103(a)**

The Examiner rejects claims 1-13, 15-29, and 31-51 under 35 USC § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,211,781 to McDonald ("McDonald") in view of US. Patent Application Publication 2002/0029178 to Wiederin et al. ("Wiederin"). This rejection is respectfully traversed.

Claims 1, 17, 33, 36, 39, 42, 45, and 46 respectively describe a method, a system, and a program storage device embodying instruction to perform a method for the real-time tracking of goods in a supply chain, including charging users of said supply chain a fee dependent on the number of tracked goods or on the number of transactions including a read of a tag on a good. McDonald, as presently understood, discloses tracking moveable articles using tag readers, but as the Examiner correctly notes, McDonald does not disclose at least charging users a fee to access a data center and view reports.

The Examiner attempts to remedy the deficiency of McDonald by relying on Wiederin. To rely on a reference under 35 USC 103, it must be analogous prior art. A reference is considered analogous if it is either 1) in the field of applicant's endeavor, or 2) reasonably pertinent to the particular problem with which the inventor was concerned. See MPEP §2141.01(a). The field of invention of Wiederin is information systems, and more particularly charging for directory assistance that is provided over a packet switched network. See [0002]-[0003]. In contrast, Applicants' field of invention is supply chain management, and more particularly the real-time tracking of goods. See Applicants' Specification, p. 2, lines 15-17. Thus, Wiederin is far from the Applicants' field of endeavor. In addition, Wiederin is not reasonably pertinent to the particular problem with which the inventors were concerned. Wiederin discloses a method for tracking the number of directory listings transmitted to a client access device. See, e.g., Abstract. Applicants' are concerned with tracking goods through a supply chain. Thus, Wiederin is not reasonable pertinent to the problem of tracking goods through a supply chain. Therefore, Wiederin is not analogous art, and the rejection based on the combination of McDonald with Wiederin should be withdrawn.

Assuming *arguendo* that the references can be combined in the manner suggested by the Examiner, Wiederin still does not remedy this shortcoming of McDonald. Wiederin, as currently understood, merely discloses a method for charging for on-line directory assistance services including determining the number of directory listings that are transmitted to and displayed on a client access device, and preparing billing information based upon the number of directory listings. See [0010]. Wiederin does not disclose or suggest at least charging users of a supply chain a fee dependent on the number of tracked goods, as required by claims 1, 33, 39, and 45. Likewise, Wiederin does not disclose charging users a "fee per transaction...each transaction including a single tag read" as required by claims 17, 36, 42,

and 46. Thus, even assuming *arguendo* that the references can be combined in the manner suggested by the Examiner, the combination does not include all limitations required by the independent claims.

In addition, all independent claims require a limitation including compensating for missing information. Wiederin does not disclose tracking or reading tag information. McDonald, a currently understood, merely discloses generating an error signal when a tracked location deviates from a predetermined route (see, e.g., claim 1), but does not disclose “compensating for missing information by using a previous tag read and a current tag read” as required by all independent claims. Thus, McDonald and Wiederin also do not disclose or suggest this limitation of the claimed invention.

The deficient disclosures of these references, considered either alone or in combination, thus fail to establish even a *prima facie* basis from which a proper determination of obviousness under 35 U.S.C. § 103(a) can be made, because the references do not teach or suggest all of the claim limitations as detailed above. It is therefore respectfully submitted that claims 1, 17, 33, 36, 39, 42, 45, and 46 are patentably distinguishable over the cited art for at least these reasons.

Dependent claims 2-13, 15-16, 18-29, 31-32, 34-35, 37-38, 40-41, 43-44, and 47-51 variously depend from their respective base claims, which were shown above to be patentable over the cited references. In addition, these claims recite additional limitations that also are not disclosed by the cited references, for example wherein said compensating includes detecting that a missing tag read occurred by learning that a tag read was made on said good at a first location and at a third location, but not at a second location, wherein said good could not arrive at said third location without first passing through said second location; further including an Intransit Data Appliance (IDA) and an Enterprise Server, said Enterprise server

coupled to said data center and said IDA coupled to said Enterprise Server to transmit data on the location of a good or conveyance using Global Positioning Satellite (GPS) technology; and wherein said site server is further configured to perform aggregation-by-inference, wherein an aggregation event automatically indicates that said conveyance has been completely filled with items. In addition, claims 49-51 are further limited from claim 1 by the specific recitations of “wherein said compensating comprises compensating for missing information about a good by using aggregation information derived from a previous tag read and a current tag read to create a missing tag read for the good,” “wherein said compensating comprises compensating for missing information about a second location by using location information from a previous tag read at a first location with location information from a current tag read at a third location to create a missing tag read for the good at the second location,” and “receiving the missing information subsequent to the compensating; and replacing the compensated information with the missing information.”

These aspects of the invention as now variously claimed are not shown or suggested by the cited art, and have not been shown to be old or well known in this art.

Thus, Applicants submit that dependent claims 2-13, 15-16, 18-29, 31-32, and 49-51 are patentably distinct over the cited art, and are now in condition for allowance.

### **Conclusion**

In sum, Applicants respectfully submit that claims 1-13, 15-29, and 31-51, as presented herein, are patentably distinguishable over the cited references and submit that they are now in condition for allowance. None of the prior art, taken alone or in combination, teaches or suggests the real-time tracking of goods in a supply chain, including charging users of said supply chain a fee dependent on the number of tracked goods or on the number of


transactions including a read of a tag on a good. In addition, none of the prior art teaches or suggests compensating for missing information by using a previous tag read and a current tag read.

In view of the fact that there have been five non-final office actions in this case, Applicants respectfully request that after these arguments have been considered, if the Examiner is not inclined to issue a notice of allowance, that the Examiner contact Applicants' representative at the number provided below for a telephone interview with the Examiner and the Examiner's SPE, before the Examiner substantively responds.

Respectfully Submitted,  
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